IN THE HIGH COURT OF JUDIATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO.302 OF 2006

Ashok Gyanchand Vohra, .. Petitioner.
Vs
1.State of Maharashtra & ors. .. Respondents

Mr N.D.Kamble i/b Mr A.M.Saraogi, for the petitioner.
Ms Asmita Sarangdhar, for respondent no.2.
Mrs M.H.Mhatre, APP for the respondent-State.

CORAM : D.B.BHOSALE, J.

DATED : 18th July, 2006

P.C.:

1. Heard the learned counsel for the parties.

2. In this petition, the petitioner has made the following prayers:

> "(a) that this Honourable Court be pleased to quash and set aside the order of the Special Court constituted under the MCOCA Act in Misc.Application No.243 of 2004 and all other applications filed by the respondent no.2 before the Special Court constituted under MCOC Act;
>
> (b) The Hon'ble Court be pleased to hold and declare that the private complaint lodged by the respondent no.2 doe snot fit under the purview of the alleged offence attracting provisions of Maharashtra Control of Organised Crime Act, 1999;
>
> (c) that this Honourable Court be pleased to hold and declare that Special Judge, Mumbai constituted under MCOC Act has no jurisdiction to entertain private complaint filed by respondent no.2.;

(d) that this Honourable Court be pleased to hold and declare that impugned order issued by MCOC Court, Mumbai is non-est and null and void;

(e) Issue mandatory order not to take any corrosive measure or arrest under the guise of any investigation under MCOC Act;

(f) Hold and declare that the private complaint relates and pertains to the incidents alleged to have occurred in Thane rural then it is matter of just legality as to how special court of Bombay could have taken cognizance of private complaint;

(g) This Hon'ble Court would be pleased to hold and declare that the order dated 10/1/2006 passed by the learned Special Judge,MCOCA Court, Greater Mumbai in Misc.Application No.14/2006 in Private Complaint bearing M.A.No.243/2004 is bad in law, without jurisdiction and non-est;"

The writ petition of the present petitioner and some other writ petitions, where the question as to whether the private complaint under the provisions of MCOC Act is maintainable, fell for the consideration of the Full Bench of this Court. The Full Bench decided the question in Ashok G.Vohra Vs. State of Maharashtra and Ors, 2006 All.M.R.(Cri) 740. The Judgment of the Full Bench was carried to the Supreme Court by some of the parties in that group of writ petitions including the State of Maharashtra and in the SLP filed by the State, upon hearing the learned counsel, the Supreme Court passed the following order:-

"We have heard counsel for the State of

Maharashtra and counsel for the accused.

We clarify that the police or the investigating agency is not prevented from filing an interim report but no final report shall be submitted till further orders of this Court."

I am informed that in all the SLPs similar orders are passed by the Supreme Court. Ms. Sarangdhar, learned counsel for respondent no.2, further informed me that in none of the SLPs the judgment of the Full Bench and the investigation in pursuance of the orders passed by the Special Court, have been stayed by the Supreme Court. The petitioner could not dispute the statement made by Ms Sarangdhar or produce anything befor me to show that the judgment of the Full Bench in Ashok G Vohra’s case has been stayed by the Supreme Court. In the circumstances, the prayers made in this petition cannot be entertained at this stage and, therefore, the writ petition must be rejected. order accordingly. It is open for the petitioner to seek appropriate reliefs at appropriate stage either after disposal of the SLPs by the Supreme Court, where the judgment and order of the Full Bench is under challenge, or if any further order is passed by the Supreme Court in the SLPs.

(D.B.BHOSALE,J.)